

REMARKS

The Examiner objected to the drawings under 37 C.F.R. 1.83(a) in that the drawings need to show every feature of the invention specified in the claims.

Specifically, the Examiner requires that the “front wall” (line 3 of claim 1); “first connector mechanism” (line 6 of claim 1) and “second connector mechanism” (line 9 of claim 1) must be shown or the feature(s) canceled from the claims. **In response,** Applicant respectfully submits that these features are already shown in the drawings.

Specifically the **“front wall”** (line 3 of claim 1) is shown in Fig. 4 as number “44”.

The **“first connector mechanism”** is shown in Fig. 18, the first connector mechanism being an interlocking ridge/boss and a groove. The first connector mechanism thus comprises the rim 51 on the bracket interlockingly received within the second groove formed between the rear wall 58 of the rail connector and the ridge 63 of the rail connector. Alternatively or additionally, the ridge 63 is interlockingly received within a first groove formed between the end of the side wall 34 or 34' and rim 51.

Applicant attaches hereto a replacement drawing sheet including Figs. 17 & 18. In the amended Fig. 18 the second groove has been numbered “104” in conformity with page 8, lines 3-6 of the specification and with Fig. 9 which shows the details of the rail connector prior to attachment to the bracket. Furthermore, the amended Fig. 18 shows the first groove which has now been numbered “53” in accordance with Fig. 3 and page 6, lines 8-12 of the specification. The rim 51 interlocks with the second groove 104, and

the ridge 63 interlocks with the first groove 53 and thereby join the rail connector and bracket together. The first and second grooves 53, 104 have been numbered for ease of use of Fig. 18 when reading the specification. No new matter has been added by way of this amendment.

The “**second connector mechanism**” is a plurality of screws which are shown in Fig. 19, the screws 62 being received through rear wall 58 of rail connector and front wall 44 of bracket.

Inasmuch as all of the referenced features are shown in the drawings, Applicant respectfully requests that the replacement sheet including Fig. 18 be accepted by the Examiner and respectfully requests that the objection to the drawings under 37 C.F.R. 1.83(a) be withdrawn.

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter (37 C.F.R. 1.75(d)(1) and MPEP §608.01(o). The Examiner pointed out that the phrases “front wall” (line 3 of claim 1); “first connector mechanism” (line 6 of claim 1) and “second connector mechanism” (line 9 of claim 1) are not recited in the specification. **In response** to the objection that the phrase “front wall” does not specifically appear in the specification, Applicant has amended the claims by replacing the phrase “front wall” with the phrase -- outer wall --. The Applicant amended the claims instead of the specification because the term “outer wall” appears frequently in the specification and, consequently, replacing that phrase would have required that numerous amendments be made to the specification as opposed to only a few amendments to the claims. Applicant respectfully submits that the amendments to the claims overcome the objection to the specification in relation to

the phrase “front wall”.

With respect to the terms “first connector mechanism” and “second connector mechanism”, Applicant concurs that these terms did not specifically appear in the specification, but submits that the mechanisms themselves are clearly shown and described therein. In order to comply with the Examiner’s requirement for correction of the specification, Applicant has amended page 9 of the specification by inserting specific reference to the “first connector mechanism” and has amended page 11 by inserting specific reference to the “second connector mechanism”. Applicant respectfully submits that no new matter has been added by way of these amendments inasmuch as the first connector mechanism, namely the interlocking groove and ridge/boss; and the second connector mechanism, namely the screws connecting the rail connector and bracket together, were both shown and described in the specification. Applicant has merely inserted these terms in accordance with the Examiner’s requirement that they be specifically recited in the specification. Applicant respectfully submits that these amendments overcome the Examiner’s objections to the specification.

The Examiner objected to claim 1 because the phrases “front wall”, “first connector mechanism” and “second connector mechanism” are not recited in the specification. Applicant respectfully submits that the amendments made to the specification in relation to the previous objection to the specification have also addressed this issue.

The Examiner rejected claims 1-14 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated

that Claim 1 contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Specifically, the Examiner stated that the specification and drawings do not support claim 1's limitation that "the rear wall of the rail connector is slidingly movable along the front wall of the bracket" and "a second connector mechanism fixedly connecting the rail connector to the bracket" **at the same time** (Emphasis added by the Examiner). **In response**, the Applicant has amended claim 1 by inserting wording to indicate that the first connector mechanism and second connector mechanism are not engaged "at the same time", but rather that the first connector mechanism interlocks the rail connector and bracket together while allowing the rail connector to be placed at a desired position on the outer wall of the bracket; and that the second connector is only engaged once the rail connector is at the desired position on the outer wall of the bracket. Applicant submits that this wording clarifies that the first and second connector mechanisms are not engaged at the same time but that the second connector mechanism is engaged after the first connector mechanism. Applicant respectfully submits that this amendment overcomes the Examiner's rejection of claim 1 and therefore claims 2-14 under 35 U.S.C. 112, first paragraph.

The Examiner rejected claims 1, 2, 5 and 7-14 under 35 U.S.C. 102(b) as being anticipated by Francis (U.S. Patent # 4,767,232). The Examiner stated that Francis discloses a first connector mechanism (84) that interlocks the rail connector and bracket together whereby the rear wall of the rail connector is slidingly movable (during rotation) along the front wall of the bracket; and a second connector mechanism (80)

which fixedly connects the rail connector to the bracket and wherein the second connector mechanism is engaged when the rail connector is disposed at a desired position on the front (outer) wall of the bracket. **In response**, Applicant respectfully disagrees that there are two connector mechanisms in this device. Applicant submits that there is only one connector mechanism with two cooperating parts - namely a pivot pin (80) and a screw (84) for locking that pivot pin in place. If the screw (84) is not received within the pivot pin (80), the pin will slide out of the rail connector and bracket and the joint will fall apart. In the Francis device, the single connector mechanism is inserted loosely through the bracket and rail connector so that the rail connector can be positioned at an angle relative to the bracket. The single connector mechanism is tightened once that desired position is reached to lock the joint in place. If either of the screw (84) or the pivot pin (80) were omitted, the rail connector and bracket would not be connected together either fixedly or slidingly because the whole joint would fall apart. Applicant submits that the two components are merely cooperating members of the same single connector. In the Applicant's device, on the other hand, the cooperating ridge and groove (first connector mechanism) would hold the rail connector and bracket together even if the second connector mechanism (the screws) were omitted. Conversely, if the cooperating ridge and groove were omitted, the screws (the second connector mechanism) would hold the rail connector and bracket together. Clearly, Francis only has one connector mechanism while the instant invention has two independent connector mechanisms. Anticipation requires that each and every element of a claim be found in prior art reference. Applicant respectfully submits that inasmuch as Francis only has one connector mechanism and the claim requires two

independent connector mechanisms, Francis does not anticipate claim 1 of the instant invention, and therefore does not anticipate claims 2, 5, and 7-14.

Furthermore, with respect to the Examiner's comments regarding claim 5, Applicant respectfully disagrees with the Examiner's position that the cavity defined in joint member 22 is adapted to receive (but not necessarily receiving - Emphasis by the Examiner) an end of a rail therein - that being a rail of smaller diameter than the cavity. Applicant submits that the cavity defined in joint member 22 is clearly provided to receive pivot pin 80 therein - it is, in essence, merely a screw hole. Applicant respectfully submits that persons of ordinary skill in the art would not perceive this cavity as potentially capable of receiving a rail therein, especially since such a rail would have to be of extremely diminished diameter relative to post 10. Furthermore, using the cavity as a rail-receiving hole would essentially render the entire joint useless as the rail would act as the pivot point for the joint. Therefore, while it would be possible to pivot the joint member 22, it would serve no purpose as the rail would be extending outwardly from the cavity at a constant and non-adjustable position and orientation relative to the bracket. This would negate the entire reason for the joint - which is providing a means for connecting a vertical post to an inclined rail (column 1, lines 5-11). Applicant submits that using the cavity as suggested by the Examiner would therefore render Francis' device useless. Consequently, Applicant submits that claim 5 is not anticipated by Francis.

In response to the rejection of claim 7, the Examiner has stated that Francis discloses that a portion of the peripheral wall includes side walls and these are defined by the Examiner as the walls of the cavity in 22 which receive 80. The Examiner goes

on to state that these walls of the cavity have an interior face, an exterior face, front and back edges and that they form a lip between the back edge of the side wall and the rear wall of the rail connector. Applicant is unable to identify which "peripheral" wall of Francis' device the Examiner is referring to and is furthermore unable to identify the various component features of that peripheral wall as named by the Examiner but not pointed out with sufficient specificity to allow the Applicant to respond thereto. Nevertheless, inasmuch as Applicant has argued previously that Claim 1 is not anticipated by Francis, Claims 7 through 14 are dependent from Claim 1 and consequently Applicant submits that Claims 7-14 are therefore also not anticipated by Francis.

The Examiner stated that claims 3, 4 and 6 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, first paragraph and to include all of the limitations of the base claim and any intervening claims. In response, Applicant submits that the rejection under 35 U.S.C. 112, first paragraph, has been addressed and overcome in this response. Applicant has therefore rewritten claims 3 and 6 in independent form and submits that claims 3, 4 and 6 are now in condition for allowance.

Applicant has added new claims 15-18 which depend from allowable claim 3. Applicant submits that claims 15-18 are therefore also allowable.


Applicant has further added new claims 19-20 which depend from allowable claim 6. Applicant submits that claims 19 and 20 are therefore also allowable.

The allowable claims in the application and therefore claims 3, 4, 6, and 15-20.
Applicant requests reconsideration of claims 1, 2, 5 and 7-14.

Should the Examiner wish to discuss any of the above matters, he is invited to
call the undersigned at (330) 244-1174.

Respectfully submitted at Canton, Ohio this 6TH day of JULY, 2005.

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Enclosure - Replacement drawings sheet (Figs. 17 & 18)

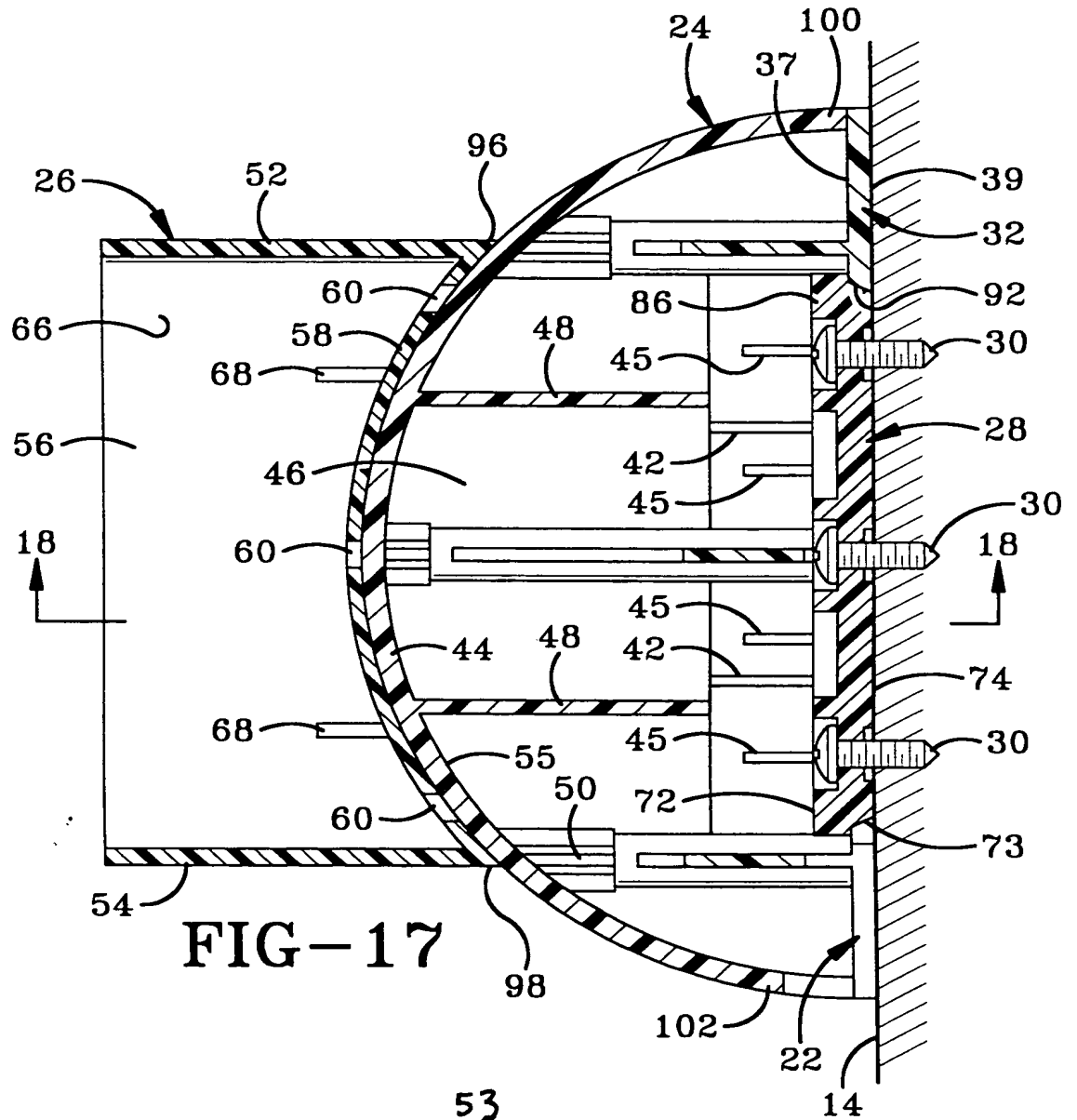


FIG-17

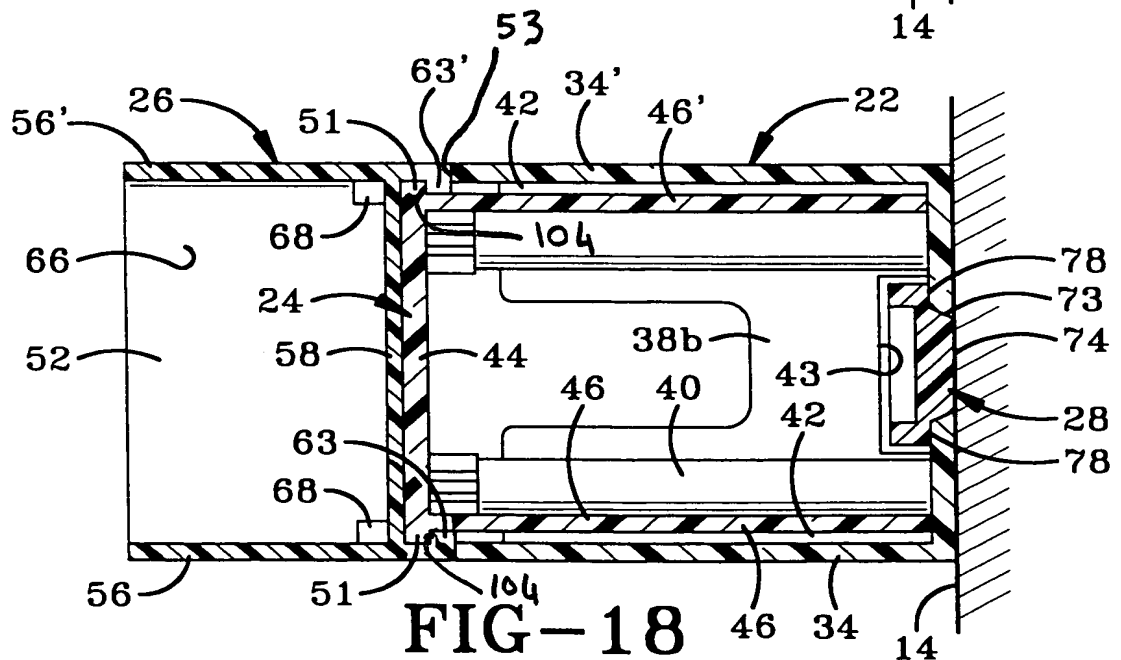


FIG-18